2025 Regular Session

HOUSE BILL NO. 377

BY REPRESENTATIVE OWEN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH SERVICES: Authorizes an individual to refuse certain medical treatments

AN ACT

To enact Subpart D of Part II of Chapter 5-D of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1162.1 through 1162.3, relative to the use of drugs with emergency use authorization; to provide for definitions; to provide for notice from a healthcare provider to an individual about a drug's emergency use authorization status; to establish methods for an individual to refuse to receive a drug authorized for emergency use; to provide for documenting an individual's decision to refuse a drug; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart D of Part II of Chapter 5-D of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1162.1 through 1162.3, is hereby enacted to read as follows:

SUBPART D. RIGHT TO REFUSE EMERGENCY USE AUTHORIZATION DRUGS, DEVICES, TESTS, AND PROCEDURES

§1162.1. Title; purpose

A. This Subpart shall be known and may be cited as the "Right to Refuse Emergency Use Authorization Drugs Act".

B. The purpose of this Subpart is to ensure that individuals are fully informed of their right to refuse a medical device, test, pharmaceutical, drug, vaccine, or biological product that is authorized by the United States Food and Drug

Administration through the Emergency Use Authorization process and to provide procedures for obtaining informed consent before any medical device, test, pharmaceutical, drug, vaccine, or biological product with an emergency use authorization is administered.

§1162.2. Definitions

As used in this Subpart, the following terms mean:

(1) "Covered drug or vaccine" means any medical device, test, pharmaceutical, drug, or biological product that has received only Emergency Use Authorization from the United States Food and Drug Administration.

(2) "Healthcare provider" means any healthcare professional, clinic, hospital, or entity administering a covered drug or vaccine.

(3) "Informed consent" means the process by which an individual, after receiving full and accurate information about the risk, benefits, and alternatives to a covered drug or vaccine, voluntarily agrees to its administration.

§1162.3. Notice before use of a covered drug; acknowledgment; right to refuse

A.(1) A healthcare provider shall give written and verbal notice to an individual receiving a covered drug or vaccine of his right to refuse the treatment. The notice shall include all of the following:

(a) A statement that the covered drug or vaccine is authorized for treatment under a Emergency Use Authorization and has not undergone the full United States Food and Drug Administration approval process.

(b) A statement that the individual may refuse the covered drug or vaccine without facing any discrimination, retaliation, or loss of service.

(c) A statement of the known risks, benefits, and alternatives to the covered drug or vaccine including nonintervention and other treatments.

(d) A summary of any known risks of refusing the covered drug or vaccine.

(2) The healthcare provider shall offer the individual a verbal explanation of the key points outlined in Paragraph (1) of this Subsection and answer any questions posed by the individual.

(3) The healthcare provider shall obtain the signature or electronic authentication of the individual as an acknowledgment that the individual has received the notice required by Paragraph (1) of this Subsection. This acknowledgment does not constitute consent to a treatment.

B. No healthcare provider shall coerce, threaten, or pressure an individual into accepting a covered drug or vaccine. If an individual refuses a covered drug or vaccine, no negative consequences shall befall him including but not limited to denial of treatment, loss of employment, or denial of benefits or services.

C. A healthcare provider shall document an individual's decision to refuse a covered drug or vaccine in the individual's medical record along with the date and the specific covered drug or vaccine the individual declined. The individual and provider shall acknowledge the refusal by signature or electronic authentication.

D. Any healthcare provider that fails to comply with the requirements of this Section may be subject to disciplinary action including revocation or suspension of licensure, fines, or other penalties as determined by the healthcare provider's licensing authority. Individuals who believe that the requirements of this Section have been violated may file a complaint with the appropriate professional board or state or federal agency for investigation.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Provides that an individual has the authority to refuse a drug or other pharmaceutical if the product has only received Emergency Authorization from the United States Food and Drug Administration (FDA).

Present law states that an individual may refuse a drug or medical treatment, and a healthcare professional or healthcare institution is required to obtain informed consent prior to providing a medical treatment or drug except in emergency circumstances.

Proposed law defines "informed consent", "healthcare provider", and "covered drug or vaccine".

Proposed law retains present law and adds that a healthcare provider is required to provide written and verbal notice to a patient informing him that he may refuse a covered drug or

vaccine when the drug or other product is approved only by an FDA Emergency Use Authorization.

Proposed law provides that a healthcare provider is required to explain the emergency use authorization status of a covered drug or vaccine, the known risks and benefits of the covered drug or vaccine, and that the patient may refuse a covered drug or vaccine.

Proposed law requires a healthcare provider to obtain a signature of electronic verification from a patient as an acknowledgment that the patient received the notice required by proposed law.

Proposed law states that a healthcare provider who fails to provide notice to and record acknowledgment from a patient may be subject to a disciplinary action from the healthcare provider's licensing body or other appropriate state or federal agency.

(Adds R.S. 40:1162.1-1162.3)